

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID V. JORDAN,)	
)	
Plaintiff,)	Case No. 1:18-cv-228
)	
v.)	
LIEUTENANT MURIN, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER OF JUDGMENT

This prisoner civil rights action was received by the Clerk of Court on August 16, 2018 and referred to the undersigned, then a United States Magistrate Judge, for report and recommendation (“R&R”), in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and the Local Civil Rules of this Court. After the undersigned was sworn in as a United States District Judge, the case was referred to United States Magistrate Judge Richard A. Lanzillo for all pretrial proceedings. ECF No. 9. The undersigned became the presiding U.S. District Judge on July 23, 2019.

The claims in this case concern events that allegedly transpired while Plaintiff was incarcerated at SCI-Forest. As set forth in his complaint, ECF No. 3, Plaintiff alleges that he was assaulted by corrections officials on May 1, 2016 in retaliation for having filed a lawsuit against fellow corrections officers. He states that, following the assault, he was denied appropriate medical care. Plaintiff now seeks redress under 42 U.S.C. §1983 for the alleged violation of his federal constitutional rights. In his complaint, he names nine current or former employees of the Pennsylvania Department of Corrections, along with four individuals who provided medical services at SCI-Forest during times relevant to this lawsuit.

One of the individuals named as a defendant in this lawsuit is Tessa Adelekan, a nurse practitioner who worked in SCI-Forest's medical department. Plaintiff's claims against Defendant Adelekan -- set forth at Counts 4, 5 and 7 of the Complaint -- allege that Adelekan violated his Eighth Amendment rights by failing to provide constitutionally sufficient medical care following his May 1, 2016 altercation.

On March 19, 2020, Defendant Adelekan filed a motion to dismiss the complaint or, in the alternative, motion for summary judgment relative to all claims asserted against her. ECF Nos. 120, 121. Plaintiff has responded to this motion, see ECF Nos. 135, 136, 137, 138, 140, and Adelekan has replied to Plaintiff's response, see ECF Nos. 143, 146.

On November 4, 2020, Magistrate Judge Lanzillo issued an R&R recommending that Adelekan's motion be treated solely as a motion for summary judgment and that it be granted. ECF No. 164. Judge Lanzillo opined that Plaintiff had failed to exhaust all but one of his Eighth Amendment claims against Defendant Adelekan and, as to the claim that *was* exhausted, Plaintiff failed to demonstrate the existence of a genuine issue of material fact concerning Adelekan's alleged deliberate indifference. Plaintiff was given leave to file objections to the R&R by February 28, 2021; however, he has not done so to date.

Accordingly, after *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 3rd day of March, 2021;

The Court having construed and treated Defendant Tessa Adelekan's Motion to Dismiss or, in the alternative, for Summary Judgment, ECF No. [120], as a motion for summary judgment under Federal Rule of Civil Procedure 56, IT IS ORDERED that the motion shall be, and hereby is, GRANTED.

IT IS FURTHER ORDERED, pursuant to Rule 58 of the Federal Rules of Civil Procedure, that JUDGMENT shall be, and hereby is, entered in favor of Defendant Tessa Adelekan and against Plaintiff David V. Jordan relative to Counts 4, 5, and 7 of the complaint.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on November 4, 2020, ECF No. [164], is adopted as the opinion of the Court.

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

SUSAN PARADISE BAXTER
United States District Judge

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